

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0401-AIR-E **TCEQ ID:** RN100211739 **CASE NO.:** 32999  
**RESPONDENT NAME:** Davis Petroleum Pipeline LLC

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Shore Acres Production Facility, approximately one mile north of the intersection of State Highway 146 and Port Road, La Porte, Harris County

**TYPE OF OPERATION:** Oil and gas production

**SMALL BUSINESS:** ☐ Yes ☒ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on August 6, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  
**Respondent:** Mr. Gregg Davis, President, Davis Petroleum Pipeline LLC, 1360 Post Oak Boulevard, Suite 2400, Houston, Texas 77056  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 20, 2006 to February 2, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 23, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Three violations were documented.</p> <p><b>AIR</b></p> <p>1) Failed to obtain New Source Review ("NSR") authorization for air emissions and failed to submit an abbreviated Title V Operating Permit application [30 TEX. ADMIN. CODE §§ 116.110(a) and 122.130(b)(1) and TEX. HEALTH &amp; SAFETY CODE §§ 382.085(b), 382.0518(a), and 382.054].</p> <p>2) Failed to prevent an off-site impact of 140 parts per billion by volume of benzene [TEX. HEALTH &amp; SAFETY CODE § 382.085(a) and 382.085(b)].</p> <p>3) Failed to submit annual emissions inventories for the years 2003, 2004, and 2005 [TEX. ADMIN. CODE §101.10(a)(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$30,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$30,000</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> People and the environment have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit an abbreviated initial application for a Federal Operating Permit ("FOP");</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete NSR Permit application;</p> <p>c. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning the FOP and NSR Permit applications within 30 days of the date of such letters, or by any other deadline specified in writing;</p> <p>d. Within 30 days after the effective date of this Agreed Order, submit emissions inventories for the years 2003, 2004, and 2005;</p> <p>e. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a., b., and d.;</p> <p>f. Within 60 days after the effective date of this Agreed Order, submit written certification that either NSR authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained; and</p> <p>g. Within 260 days after the effective date of this Agreed Order, submit written certification that either FOP program authorization to operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

**TCEQ**

**DATES**

**Assigned**

5-Mar-2007

**PCW**

16-Apr-2007

**Screening**

8-Mar-2007

**EPA Due**

4-Jan-2008

## RESPONDENT/FACILITY INFORMATION

**Respondent** Davis Petroleum Pipeline LLC

**Reg. Ent. Ref. No.** RN100211739

**Facility/Site Region** 12-Houston

**Major/Minor Source** Major

## CASE INFORMATION

**Enf./Case ID No.** 32999

**Docket No.** 2007-0401-AIR-E

**Media Program(s)** Air Quality

**Multi-Media**

**Admin. Penalty \$ Limit Minimum** \$0 **Maximum** \$10,000

**No. of Violations** 3

**Order Type** Findings

**Enf. Coordinator** Terry Murphy

**EC's Team** Enforcement Team 5

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$30,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

0% Enhancement

**Subtotals 2, 3, & 7** \$0

**Notes**

No change due to average performer classification.

**Culpability**

No

0% Enhancement

**Subtotal 4** \$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**

0% Reduction

**Subtotal 5** \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

**Notes**

The Respondent does not meet the good faith criteria.

0% Enhancement\*

**Subtotal 6** \$0

Total EB Amounts \$6,615

Approx. Cost of Compliance \$63,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal** \$30,000

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Adjustment** \$0

**Notes**

**Final Penalty Amount** \$30,000

### STATUTORY LIMIT ADJUSTMENT

**Final Assessed Penalty** \$30,000

### DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

0%

Reduction

**Adjustment** \$0

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

\$30,000

Screening Date 8-Mar-2007

Docket No. 2007-0401-AIR-E

PCW

Respondent Davis Petroleum Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 32999

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211739

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 8-Mar-2007

Docket No. 2007-0401-AIR-E

PCW

Respondent Davis Petroleum Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 32999

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211739

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.110(a) and 122.130(b)(1), and Tex. Health &amp; Safety Code §§ 382.085(b), 382.0518(a), and 382.054

## Violation Description

Failed to obtain New Source Review ("NSR") authorization for air emissions and failed to submit an abbreviated Federal Operating Permit ("FOP") application. Specifically, Davis Petroleum's air sampling at the Plant on February 2, 2007, and other calculations noted during the investigation, indicated a VOC emissions rate of 384 tons per year. However, the Respondent had not obtained the required NSR authorization nor submitted the required FOP application, as documented during an investigation conducted July 20, 2006 to February 2, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			

Matrix Notes

The Respondent failed to comply with 100% of the rule.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 5

121 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$12,500

Five monthly events are recommended, from the November 7, 2006 investigation date to the March 8, 2007 enforcement screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,899

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

## Economic Benefit Worksheet

**Respondent** Davis Petroleum Pipeline LLC  
**Case ID No.** 32999  
**Reg. Ent. Reference No.** RN100211739  
**Media** Air Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$10,000	15-Dec-2003	1-Oct-2007	3.8	\$1,899	n/a	\$1,899
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to prepare and submit permit applications. The Date Required is the date the Respondent became the owner of the Plant, and the Final Date is the date the permits are expected to be issued.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,899

Screening Date 8-Mar-2007

Docket No. 2007-0401-AIR-E

PCW

Respondent Davis Petroleum Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 32999

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211739

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 2

Rule Cite(s)

Tex. Health &amp; Safety Code § 382.085(a) and 382.085(b)

Violation Description

Failed to prevent an off-site impact of 140 parts per billion by volume ("ppbv") of benzene. Specifically, the TCEQ conducted a down wind sampling event on July 21, 2006 that showed the benzene emissions from the Plant at a concentration of 140 ppbv, while the Effects Screening Level for benzene is 25 ppbv, thus contributing to a condition of air pollution, as documented during an investigation conducted July 20, 2006 to February 2, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment were exposed to significant amounts of pollutants which exceeded levels protective of human health or environmental receptors as a result of the violation. A residence is located 106 yards from one of the VOC vents, and exposure to 140 ppbv of benzene emissions exceeds protective levels.

Adjustment \$0

\$10,000

## Violation Events

Number of Violation Events 1

1

Number of violation days

mark only one with an x	daily	x
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

One daily event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4,190

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

## Economic Benefit Worksheet

**Respondent** Davis Petroleum Pipeline LLC  
**Case ID No.** 32999  
**Reg. Ent. Reference No.** RN100211739  
**Media** Air Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$50,000	21-Jul-2006	1-Oct-2007	1.2	\$200	\$3,991	\$4,190
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to design and install a vapor recovery system. The Date Required is the date of the air sampling event, and the Final Date is the date the equipment is expected to be installed and fully operational.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$4,190



Screening Date 8-Mar-2007

Docket No. 2007-0401-AIR-E

PCW

Respondent Davis Petroleum Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 32999

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211739

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 101.10(a)(1) and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to submit annual emissions inventories for the years 2003, 2004, and 2005. Specifically, the Respondent's records indicate that for each of those years, VOC emissions at the Plant exceeded ten tons per year, but the required emissions inventories were not submitted, as documented during an investigation conducted July 20, 2006 to February 2, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

The Respondent failed to comply with 100% of the rule.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

1072 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$7,500

Three single events are recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$526

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent** Davis Petroleum Pipeline LLC  
**Case ID No.** 32999  
**Reg. Ent. Reference No.** RN100211739  
**Media** Air Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$3,000	31-Mar-2004	1-Oct-2007	3.5	\$526	n/a	\$526
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to prepare and submit emissions inventories. The Date Required is the date the 2003 inventory was due, and the Final Date is the date the 2003, 2004, and 2005 inventories are expected to be submitted.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$526

# Compliance History

Customer/Respondent/Owner-Operator:	CN603143389	Davis Petroleum Pipeline LLC	Classification: Average	Rating: 3.01
Regulated Entity:	RN100211739	SHORE ACRES PRODUCTION FACILITY	Classification: Average by Default	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	25443	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG7260I	
	AIR NEW SOURCE PERMITS	AFS NUM	4820101482	
Location:	Approximately one mile north of the intersection of State Highway 146 and Port Road, La Porte, Harris County			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	March 19, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 19, 2002 to March 19, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Terry Murphy	Phone:	(512) 239-5025	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Davis Petroleum Pipeline LLC
4. If Yes, who was/were the prior owner(s)? Vintage Petroleum Inc  
Energy Reserves Group, L.L.C.
5. When did the change(s) in ownership occur?  
12/15/2003: Davis purchase date  
12/01/2002: Vintage sell date  
12/15/2003: Energy Reserves sell date

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 03/02/2007 (510348)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DAVIS PETROLEUM PIPELINE LLC  
RN100211739

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-0401-AIR-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Davis Petroleum Pipeline LLC ("Davis Petroleum") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Davis Petroleum presented this agreement to the Commission.

Davis Petroleum understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Davis Petroleum agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Davis Petroleum.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. Davis Petroleum owns and operates an oil and gas production plant located approximately one mile north of the intersection of State Highway 146 and Port Road, La Porte, Harris County, Texas (the "Plant").



2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE §382.003(12).
3. During an investigation conducted July 20, 2006 to February 2, 2007, TCEQ staff documented that Davis Petroleum failed to obtain New Source Review ("NSR") authorization for air emissions and failed to submit an abbreviated Federal Operating Permit ("FOP") application. Specifically, Davis Petroleum's air sampling at the Plant on February 2, 2007, and other calculations noted during the investigation, indicated a VOC emissions rate of 384 tons per year. However, Davis Petroleum had not obtained the required NSR authorization and had not submitted the required FOP application.
4. During an investigation conducted July 20, 2006 to February 2, 2007, TCEQ staff documented that Davis Petroleum failed to prevent an off-site impact of 140 parts per billion by volume ("ppbv") of benzene. Specifically, the TCEQ conducted a down wind sampling event on July 21, 2006 that showed the benzene emissions from the Plant at a concentration of 140 ppbv, while the Effects Screening Level is 25 ppbv, thus contributing to a condition of air pollution.
5. During an investigation conducted July 20, 2006 to February 2, 2007, TCEQ staff documented that Davis Petroleum failed to submit annual emissions inventories for the years 2003, 2004, and 2005. Specifically, Davis Petroleum's records indicate that for each of those years, VOC emissions at the Plant exceeded ten tons per year, but the required emissions inventories were not submitted.
6. Davis Petroleum received notice of the violations on February 28, 2007.

## II. CONCLUSIONS OF LAW

1. Davis Petroleum is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Davis Petroleum failed to obtain NSR authorization for air emissions and failed to submit an abbreviated Title V Operating Permit application, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 122.130(b)(1) and TEX. HEALTH & SAFETY CODE §§ 382.085(b), 382.0518(a), and 382.054.
3. As evidenced by Findings of Fact No. 4, Davis Petroleum failed to prevent an off-site impact of 140 ppbv of benzene, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and 382.085(b).
4. As evidenced by Findings of Fact No. 5, Davis Petroleum failed to submit annual emissions inventories for the years 2003, 2004, and 2005, in violation of 30 TEX. ADMIN. CODE §101.10(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Davis Petroleum for violations of the Texas Water Code and the





Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Thirty Thousand Dollars (\$30,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Davis Petroleum has paid the Thirty Thousand Dollar (\$30,000) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Davis Petroleum is assessed an administrative penalty in the amount of Thirty Thousand Dollars (\$30,000) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Davis Petroleum's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Davis Petroleum Pipeline LLC, Docket No. 2007-0401-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Davis Petroleum shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit an abbreviated initial application for a FOP, as described by 30 TEX. ADMIN. CODE § 122.130 to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete NSR Permit application, as described by 30 TEX. ADMIN. CODE § 116.110(a) to the TCEQ Air Permits Division address listed in Ordering Provision 2.a.;
  - c. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning the FOP and NSR Permit applications within 30 days of the date of such letters, or by any other deadline specified in writing;



- d. Within 30 days after the effective date of this Agreed Order, submit emissions inventories for the years 2003, 2004, and 2005, as described by 30 TEX. ADMIN. CODE § 101.10 to:

Emissions Inventory Data, MC 166  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- e. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 2.a, 2.b., and 2.d.;
- f. Within 60 days after the effective date of this Agreed Order, submit written certification that either NSR authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained;
- g. Within 260 days after the effective date of this Agreed Order, submit written certification that either Federal Operating Permits program authorization to operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and
- h. The certifications required by these Ordering Provisions shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:



Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Davis Petroleum. Davis Petroleum is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Davis Petroleum fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Davis Petroleum's failure to comply is not a violation of this Agreed Order. Davis Petroleum shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Davis Petroleum shall notify the Executive Director within seven days after Davis Petroleum becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Davis Petroleum shall be made in writing to the Executive Director. Extensions are not effective until Davis Petroleum receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Davis Petroleum if the Executive Director determines that Davis Petroleum has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against Davis Petroleum in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 8/27/07

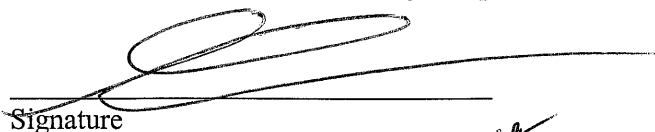
I, the undersigned, have read and understand the attached Agreed Order in the matter of Davis Petroleum Pipeline LLC. I am authorized to agree to the attached Agreed Order on behalf of Davis Petroleum Pipeline LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Davis Petroleum Pipeline LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 5/29/07

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Davis Petroleum Pipeline LLC

\_\_\_\_\_  
Title  
President

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

